

Holly Benson  
800 E. Ocean Blvd., #608  
Long Beach, CA 90802

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**March 10, 2004**

Docket No. 04-06  
Communications Division  
Public Information Room, Mailstop 1-5  
Office of the Comptroller of the Currency  
250 E St. SW,  
Washington 20219

Docket No. R-1181  
Jennifer J. Johnson  
Secretary  
Board of Governors of the Federal Reserve System  
20th Street and Constitution Avenue, NW  
Washington DC 20551

Robert E. Feldman  
Executive Secretary  
Attention: Comments  
Federal Deposit Insurance Corporation  
550 17th St NW  
Washington DC 20429

Regulation Comments, Attention: No. 2004-04  
Chief Counsel's Office  
Office of Thrift Supervision  
1700 G Street NW  
Washington DC 20552

**RE: Comments Regarding Revisions to the Regulations Implementing the CRA**

**Dear** Officials of Federal Bank and Thrift Agencies:

I urge you to **withdraw** the proposed changes to the Community Reinvestment Act (CRA) regulations. CRA has **been** instrumental in increasing access to homeownership, developing multi-family housing, boosting economic development, **and expanding** small businesses in the nation's minority, immigrant, **and** low- **and** moderate-income communities. **Low income and** people **of** color **communities** have **utilized** CRA to abolish redlining and discrimination **in** their communities. CRA obligates **banks and** thrifts to serve all communities **in** which they are chartered and from which they take deposits.

The proposed changes include three major elements: 1) increase **the** asset **threshold** from **\$250** million to **\$500** million for **banks** to be eligible for a small bank exam; 2) **establish a weak** predatory lending compliance standard under CRA; and 3) expand data collection **and** reporting **for** small business lending and home **lending**. The beneficial **impacts** of the third proposal **are** overwhelmed by **the** damage imposed by the first **two** proposals.

Additionally, I do not agree with the federal banking agencies rejection of a proposal **which** would have tied a **bank's** CRA obligations to its market share in a given area rather **than** just the location of its branches. In California, Countrywide Home Loans **and** JP Morgan Chase are **two** such entities that despite the high number of loans made **in** the state have no CRA obligations. The agencies also **failed** communities by continuing to allow **banks** to elect to include **affiliates** on **CRA exams** at their option. Financial institutions have the ability to **manipulate** their **CRA exams** by excluding **affiliates** not serving low- and moderate-income borrowers and excluding **affiliates** engaged **in** predatory lending. **The game playing with affiliates** will end only if **the** federal agencies require **that** all affiliates be included on exams.

#### Small Bank Exams

Under the current CRA regulations, large **banks with** assets of **at least \$250 million** are rated by performance evaluations that scrutinize their level of lending, investing, and services to **low-** and moderate-income communities. The proposed changes will eliminate **the investment and service** parts of the CRA exam for banks and **thrifts with** assets between \$250 and \$500 million. The proposed changes **will also no** longer reference affiliations with holding companies. It is expected **that** these proposed changes would create streamlined and cursory exams for **1,111 banks** that account for more **than** \$387 billion in assets.

The elimination of the investment and service tests for more **than 1,100 banks** translates into considerably less access to banking services and capital for underserved communities. **For** example, these banks would no longer be held accountable under CRA exams for investing in **Low Income Housing Tax Credits, New Market Tax Credits** and equity investments in Community Development Financial Institutions (CDFIs). **Such** investments have promoted economic development **and** multi-family **affordable** housing development. **Banks in** this new category **would** no longer be held accountable for the provision of bank branches and checking/deposit accounts. **Many banks with** assets between \$250 to \$500 million are located in rural areas. Many rural banks as well as a large subset of depository institutions **will** no longer be required to **have** a continuing and affirmative obligation to serve the investment **and** deposit needs of all the communities in which **they are** chartered **and from** which **they take** deposits.

#### Predatory Lending

The proposed CRA changes contain an anti-predatory screen that will actually perpetuate **abusive** lending. The proposed standard states that loans based on the foreclosure value of **the collateral**, instead of the ability of the borrower to repay, can result in downgrades in **CRA** ratings. **The** asset-based **standard** creates a de-facto definition of predatory lending without taking into account other predatory tactics. These tactics include; 1. Targeting of minorities, low-income, **and the** elderly for sub-prime lending; 2. Originating sub-prime loans to borrowers that could qualify for prime loans; 3. Prepayment penalties; 4. Encouraging borrowers to refinance unsecured debt as a **means** of increasing the loan size **and** related point, fees, **and** commissions; 5. Selling of **single** credit insurance products **as part** of the home loan; 6. Mandatory arbitration provisions; 7. Excessive points **and** fees; 8. Yield spread premium payments or other compensations **that rewards** brokers for steering borrowers to higher cost products and **larger** loans; and 9. Purchasing and investing **in** predatory loans as **part** of a mortgage backed security.

**Any** standard that does not address the aforementioned **nine** tactics will allow **CRA** exams to be used to cover **up** predatory lending practices. Rigorous **fair** lending audits and severe penalties on **CRA exams** for abusive lending are necessary in order to ensure that low income **and** people of color borrowers **are** protected.

#### Enhanced Data Disclosure

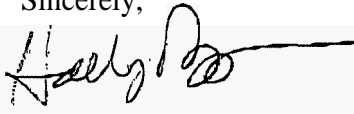
The federal agencies propose for **banks** to publicly report the specific census tracts of small businesses **and** small farms receiving **loans** in addition to the current items in the **CRA** small business data for each depository **institution**. This will improve the ability of the general **public** to determine if banks are serving **traditionally** neglected neighborhoods **and** communities. Also the regulators propose separately **reporting** purchases from **loan** originations on **CRA exams** and separately reporting **high** cost lending (per the new HMDA data requirement **starting with the** 2004 data).

The positive aspects of the proposed data enhancements do not begin to make up for the significant harm caused **by** the first two proposals. Furthermore, the **federal** agencies **are** not utilizing the data **enhancements** in order to **make** **CRA exams** more rigorous. The agencies are requiring that the **information** regarding small business **and** small **farm** lending be contained in the Disclosure Statement but would not necessarily use the data to **lower ratings** on **CRA exams**. Also data reporting on loan purchases, originations and high cost loans **will** not **impact a** **CRA** rating.

#### Conclusion

The **proposed** changes regarding streamlined exams and the anti-predatory lending standard threaten **CRA's** statutory purpose of the safe and sound provision of credit **and** deposit services. Full compliance with **CRA** regulations needs to occur where lending and profit making activities take place in **substantial** proportion. The proposed **data** enhancements would become much more meaningful if the agencies update procedures **regarding** assessment areas, affiliates, **and the** treatment of high cost loans and purchases on **CRA exams**. **CRA** gives ordinary the citizens the opportunity to have a voice regarding a bank's lending, investment **and** service components. **CRA** is too vital to be gutted **by** harmful regulatory changes **and** neglect. Thank you **for your** attention to **this** critical matter.

Sincerely,



Holly Benson